

# Exhibit A

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

- - - - - x  
IN RE: VALSARTAN, LOSARTAN, AND : MDL NO. 2875  
IRBESARTAN PRODUCTS LIABILITY :  
LITIGATION, :  
:  
THIS DOCUMENT RELATES TO :  
ALL ACTIONS :  
- - - - - x

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Veritext Virtual Zoom Videotaped  
deposition of RENA M. CONTI, Ph.D., taken on  
Thursday, February 10, 2022, in Glenside,  
Pennsylvania, commencing at 10:17 a.m. Eastern  
Standard Time, before Jamie I. Moskowitz, a  
Certified Court Reporter and Certified Livenote  
Reporter.

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1           efficacious as -- as attested to in the drug's  
2           manufacturing report to the  
3           Food and Drug Administration.

4       BY MR. GOLDBERG:

5           Q           So products that have such an  
6           attestation have value, right?

7                       MR. HONIK: Object to form.

8                       THE WITNESS: You mischaracterized my  
9           testimony.

10       BY MR. GOLDBERG:

11           Q           I'm asking you a question. Products  
12           that have the attestation you described have value,  
13           correct?

14                       MR. HONIK: Object to form.

15                       THE WITNESS: Okay. Again,  
16           prescription -- pharmaceutical manufacturers  
17           are not allowed to sell products into the U.S.  
18           market that are not produced in a manner of  
19           cGMP compliant, plus are safe and efficacious  
20           as judged by the Food and Drug Administration.

21                       There is a long and very complicated  
22           route for a product to be judged, a drug, a  
23           prescription drug, that is allowed to be  
24           entered into the U.S. class of trade.

25           Manufacturers have to meet all of those

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1 standards, both in terms of attestation -- in  
2 other words, they can say these things, but  
3 they -- but they are also judged by the  
4 regulator itself about whether or not these  
5 things are actually --

6 THE COURT REPORTER: Are actually...

7 THE WITNESS: True.

8 BY MR. GOLDBERG:

9 Q So products that are sold with that  
10 attestation have value?

11 MR. HONIK: Object to form, asked and  
12 answered.

13 THE WITNESS: Okay. Again, it's not  
14 just the attestation that matters. The U.S.  
15 regulator requires that any products that want  
16 to be sold into the U.S. market that is going  
17 to be considered a prescription drug, must be  
18 produced in accordance with cGMP and be safe  
19 and efficacious. And the manufacturer just --  
20 can't just say that. They actually have to  
21 prove it to the regulator.

22 It is in that meaning that I mean that  
23 those products have value. In other words,  
24 products that -- I can say it in a different  
25 way, which is products have value. There is a

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1           legitimate supply curve if and only if they are  
2           produced according to cGMP and are safe and  
3           efficacious, both by attestation and by  
4           proof -- by empirical proof.

5       BY MR. GOLDBERG:

6           Q           If the FDA is permitting those  
7           products to be sold, they have value?

8           A           For prescription drugs, drugs that are  
9           actually called "drugs" by the  
10          Food and Drug Administration, they -- and are sold  
11          at pharmacies, and dispensed to American patients by  
12          physicians or by pharmacy chains, those products  
13          must meet the evidentiary standard of, they are  
14          produced according to cGMP, they are not adulterated  
15          or misbranded, and they are safe and efficacious,  
16          for the -- for the disease -- specific indication  
17          that the Food and Drug Administration approves that  
18          product for.

19                   COURT REPORTER: I'm sorry. The  
20          Food and Drug Administration...

21                   THE WITNESS: Approves that product to  
22          be sold for or used for.

23       BY MR. GOLDBERG:

24           Q           So if the FDA has permitted --  
25          if -- permitted prescription drugs to be sold at

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1                   And I am just confirming. So you're  
2 not thinking about it in terms of demand, you're  
3 thinking about it in terms of supply?

4           A           What is "it" in your question?

5           Q           The -- the question of whether the  
6 drug is -- a drug is worthless?

7           A           So, again, from an economic  
8 perspective, there is no legitimate supply curve for  
9 a product that is adulterated and misbranded. That  
10 is by statute. Consumers can demand products that  
11 are illegal or illegitimate, but they're -- but a  
12 pharmacy can't sell a product that does not -- for  
13 which the manufacturer has not met the evidentiary  
14 standard and have been approved by the U.S.  
15 regulator for use in that -- in that context.

16          Q           Do you have any -- I don't see it  
17 here. Did you cite to any economic treatise for the  
18 notion that if there is -- there is no legitimate  
19 supply curve for a product that is adulterated and  
20 misbranded?

21          A           This is one of the most -- one of the  
22 most highly regulated consumer product markets  
23 that -- that exists in the United States. U.S.  
24 is -- maintains the gold standard for quality of its  
25 prescription drug supply.

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1                   Every pharmaceutical manufacturer that  
2                   sells products through to pharmacies and ultimately  
3                   to American consumers, knows what the rules are.  
4                   The rules are they must meet the evidentiary  
5                   standard of permitting to quality manufacturing and  
6                   be safe and efficacious.

7                   From an economic standpoint, that --  
8                   it is meeting those regulations that allow there to  
9                   be a supply of a product. I don't need to -- you  
10                  can't think about the supply curve of prescription  
11                  drugs without understanding what the regulation is  
12                  that allows them to be sold to the U.S. That's  
13                  your -- that's actually health economics 101.

14                Q           Well, I'm trying to understand which  
15                  health economics 101 treatise or authority you're  
16                  citing for the notion that -- because in your view,  
17                  there's no legitimate supply curve, a drug is  
18                  worthless?

19                         MR. HONIK: Object to form, asked and  
20                         answered.

21                         I'm sorry. Please answer, Dr. Conti.

22                         THE WITNESS: Thank you.

23                         It's not my view. This is the U.S.  
24                         regulator's perspective. The U.S. regulator  
25                         does not -- does not view -- does not allow

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1 drugs to be sold into the U.S. market that do  
2 not meet the evidentiary standard. And it's  
3 prescription drug manufacturers themselves that  
4 have wanted that standard to be as it is.

5 And so I -- I mean, there's plenty of  
6 published literature that talks about this, the  
7 importance of the evidentiary standard to the  
8 supply of these products, and I cite some of  
9 that in my report. But every pharmaceutical  
10 manufacturer that is allowed to sell into the  
11 U.S. market knows what the standard is.

12 BY MR. GOLDBERG:

13 Q You're -- you're not answering my  
14 question. My question is what economic support do  
15 you have for the notion that, if there's no supply,  
16 the drug is worthless?

17 MR. HONIK: Object to the form, asked  
18 and answered.

19 THE WITNESS: This is economics 101.  
20 If you go -- I'm more than happy to show you  
21 the picture. But there can be no price for a  
22 product that does not have a demand curve  
23 meeting a supply curve. There is no economic  
24 price if there is no legitimate supply curve.

25 There are plenty of economic textbooks

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1           that explain that an economic price is related  
2           to both demand and supply, and its -- and, you  
3           know, its relationship to each other.

4       BY MR. GOLDBERG:

5           Q           Was it -- there was an economic --  
6           there was an economic price that was paid for  
7           valsartan between 2012 and 2018, right?

8                       MR. HONIK: Object to the form. Are  
9           you asking if consumers paid for it, paid for  
10          this drug?

11                      THE WITNESS: I don't understand what  
12          you're asking.

13                      MR. GOLDBERG: Counsel --

14       BY MR. GOLDBERG:

15           Q           I'm using your phrase, "economic  
16           price." There was an economic price paid for  
17           valsartan between 2012 and 2018, right?

18                      MR. HONIK: Right. And our lawsuit  
19          seeks --

20                      MR. GOLDBERG: Counsel, you're not --  
21          counsel, don't testify. Don't interrupt. Let  
22          the witness answer the question.

23                      MR. HONIK: You have now asked the  
24          same question six times.

25                      MR. GOLDBERG: Counsel, don't --

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1 BY MR. GOLDBERG:

2 Q And did John -- so we talked about the  
3 therapeutic benefits that may have -- that -- that  
4 consumers who took the at-issue valsartan products  
5 may have experienced. You don't dispute that  
6 consumers who took valsartan at-issue products may  
7 have experienced therapeutic benefits?

8 MR. HONIK: Object to the form, asked  
9 and answered, beyond the scope.

10 You may answer.

11 THE WITNESS: Again, the demand curve  
12 for these products may exist. From an economic  
13 theory perspective, the demand curve represents  
14 individual assessments of benefits and costs of  
15 prescription drugs. I am not disputing that  
16 there may have been a demand curve for these  
17 products. That is not my opinion.

18 My opinion is related to the supply  
19 curve. In other words, that products that do  
20 not meet the evidentiary standard are not  
21 allowed into the U.S. products of trade, they  
22 are not viewed as being legitimate products.  
23 From my perspective, those products are  
24 worthless.  
25



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1 products that do not meet the evidentiary  
2 standard of the U.S. government.

3 I was asked to assume that  
4 products -- that these products at issue  
5 between 2012 and 2018 did not meet the  
6 evidentiary standard. They were adulterated  
7 and misbranded. Therefore, there was no supply  
8 curve, in my analysis.

9 BY MR. GOLDBERG:

10 Q Are you familiar with what the FDA  
11 advised patients to do when the recalls were  
12 announced?

13 MR. HONIK: Object to the form,  
14 outside the scope.

15 THE WITNESS: Specifically, what do  
16 you mean?

17 BY MR. GOLDBERG:

18 Q Are you aware that the FDA advised  
19 people that they should not discontinue their use of  
20 valsartan until they spoke with their doctor about  
21 it?

22 MR. HONIK: Object to the form, asked  
23 and answered, outside the scope.

24 THE WITNESS: Again, my understanding  
25 is that there were multiple FDA communications

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1           when the contamination of these products and  
2           their adulteration became known. Is there a  
3           specific communication that you are referring  
4           to?

5       BY MR. GOLDBERG:

6           Q           Well, I think my first question  
7           is -- and you can answer no if it's no.

8                       Are you aware of the FDA telling  
9           patients they should not discontinue the use of  
10          their valsartan when the FDA announced the recalls?

11                      MR. HONIK: Same objection as  
12          previously stated.

13                      THE WITNESS: Okay. The FDA had  
14          multiple communications with consumers and  
15          other suppliers about these products. I'm  
16          asking you to be specific.

17       BY MR. GOLDBERG:

18           Q           Do you want to turn to Tab 2 in your  
19          binder?

20           A           Which binder?

21           Q           Tab 2 is binder -- that would be  
22          binder, I guess, Volume 1 of 3?

23                      THE COURT REPORTER: Will this be a  
24          new exhibit?

25                      MR. GOLDBERG: Yeah -- we'll mark this

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1 Q Okay. And at the bottom of that page,  
2 there are two bullet points at the very bottom. Do  
3 you see those? And --

4 A Is that a question?

5 Q The first bullet point --

6 A Is that a question?

7 Q The first bullet point -- the first  
8 bullet point, the FDA is instructing patients taking  
9 at-issue valsartan that they should continue taking  
10 their current medicine until their doctor or  
11 pharmacist provides a replacement or a different  
12 treatment option. Did I read that correctly?

13 A I think you asked me two questions,  
14 but I see that you have read that -- that text  
15 correctly.

16 Q Did you consider at all in your  
17 assessment the FDA's instructing patients to  
18 continue -- to continue taking their medicine until  
19 they found an alternative?

20 MR. HONIK: Object to form, asked and  
21 answered, beyond the scope.

22 THE WITNESS: Again, from my  
23 perspective, there is a demand for these  
24 products. In my report, I was asked to assume  
25 that these products were contaminated,

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1 adulterated and misbranded. And therefore,  
2 there is no --

3 THE COURT REPORTER: I'm sorry. There  
4 is no...

5 THE WITNESS: There is no legitimate  
6 supply curve. The fact that the FDA reaffirms  
7 that there is a demand curve for these products  
8 and many other products that might treat  
9 someone's hypertension, is in my report. It  
10 is, by definition, considered.

11 My report is about the supply of these  
12 products.

13 BY MR. GOLDBERG:

14 Q The FDA is acknowledging that the  
15 at-issue valsartan may be providing a therapeutic  
16 benefit to the consumers who are taking it, right?

17 MR. HONIK: Object to the form, asked  
18 and answered, beyond the scope.

19 THE WITNESS: That's not what it says  
20 here on this -- on this document, sir.

21 MR. GOLDBERG: You can take down that  
22 document.

23 BY MR. GOLDBERG:

24 Q You're aware that there have been a  
25 number of recalls of valsartan since that one in

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1 theory, price cannot be arrived at without  
2 there being both demand and supply. I have  
3 been asked to assume there is -- these products  
4 were adulterated and misbranded, and therefore,  
5 there is no supply that is legitimate for these  
6 products as -- as a matter of U.S. policy. And  
7 therefore, there can be no price.

8 BY MR. GOLDBERG:

9 Q Is -- is -- in your opinion, is price  
10 the same as value?

11 A So according to the FDA alone, there  
12 is both an economic price and a therapeutic -- well,  
13 an economic value and a therapeutic value. We've  
14 also talked about this quite a lot today.

15 There might be therapeutic value, in  
16 other words, that is encapsulated in the demand  
17 curve. People -- people trade off the benefits and  
18 costs of products. But there is no supply of  
19 illegitimate, adulterated and misbranded products in  
20 my -- in my model. And therefore, there is no  
21 price.

22 BY MR. GOLDBERG:

23 Q You said, "According to the FDA alone,  
24 there is both an economic price and a therapeutic  
25 value."

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1 Q Just in terms of the FDA --

2 A And -- wait, and -- just so that  
3 you're not mischaracterizing me.

4 It's also the pharmaceutical  
5 industry's view that they want to be known as  
6 producing and entering products into the U.S. and  
7 selling products into the U.S. that are legitimate,  
8 that do meet the evidentiary standard as  
9 distinguished from products that do not.

10 Q Just as you don't want me to interrupt  
11 you, I'd appreciate it if you don't interrupt me.

12 A I was just trying to clarify your  
13 mischaracterization of my position.

14 Q In your answer, going back, you refer  
15 to the economic theory of supply and demand. What  
16 economic treatises have you been relying on for the  
17 theory that where there's no legitimate supply,  
18 there -- there's no possibility for a delivery of  
19 price?

20 A That's Economics 101.

21 MR. HONIK: Objection, asked and  
22 answered.

23 THE WITNESS: It's Economics 101.

24 MR. HONIK: I think you got your  
25 answer, Seth.